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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Access Charge Reform)	CC Docket No. 96-262
)	
Price Cap Performance Review for Local)	CC Docket No. 94-1
Exchange Carriers)	
)	
Low-Volume Long Distance Users)	CC Docket No. 99-249
)	
Federal-State Joint Board on Universal)	CC Docket No. 96-45
Service)	

**SUPPLEMENTAL COMMENTS OF THE
STATE MEMBERS OF THE
FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE**

Introduction

On March 8, 2000, the Federal Communications Commission ("FCC" or "Commission") released a Public Notice (DA 00-533) seeking comment on the Modified Proposal by the Coalition for Affordable Local and Long Distance Services ("CALLS II") regarding access charge reform. The State Members of the Federal-State Joint Board on Universal Service in CC Docket No. 96-45 ("State Members") previously filed Comments¹ in response to the Commission's earlier Notice of Proposed Rulemaking² in the Access Charge Reform proceeding.

¹ Comments of the State Members of the Federal-State Joint Board on Universal Service, July 23, 1999.

² Seventh Report & Order and Thirteenth Order on Reconsideration in CC Docket No. 96-45, Fourth Report & Order in CC Docket No. 96-262, and Further Notice of Proposed Rulemaking as issued on May 28, 1999.

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In the Second Recommended Decision,³ the Joint Board addressed some of these same issues and explained:

We do recommend, however, that, to the extent that the Commission determines that implicit support needs to be removed from interstate access charges and replaced with explicit universal service support, interstate access rates, such as the carrier common line charge (CCLC), presubscribed interexchange carrier charge (PICC), or subscriber line charge (SLC), be reduced dollar for dollar to reflect the corresponding explicit support. We further recommend that the Commission seek to ensure that any reductions in interstate access rates inure to the benefit of consumers. When considering such recommendations, the Commission should give due regard to the requirement that universal service shall bear no more than a reasonable share of joint and common costs. Moreover, the Commission should ensure that any efforts to replace implicit support in interstate access charges with explicit support do not jeopardize the reasonable comparability standard, or harm consumers generally, or any class of consumers in particular. Before taking any final action on removing this support from interstate access charges, the Commission should first consult with the Joint Board. (¶ 23.)

The State Members believe that a number of issues contained in the CALLS II proposal may have significant impact on universal service matters and other issues on which we have made recommendations. We support the Commission's objective of improving the current access charge framework, and believe there are some portions of the CALLS II proposal that should be preserved. However, we submit these Supplemental Comments to address certain aspects of the CALLS II plan that should be further evaluated.

Flowing Through Benefits To Customers

Concurrent with the February 25, 2000, submission of the CALLS II proposal, AT&T and Sprint submitted *ex parte* presentation letters to the Commission. The letters set forth commitments to eliminate PICC recovery surcharges, eliminate certain minimum usage charges (MUCs), provide

³ Federal-State Joint Board on Universal Service (Docket No. 96-45), *Second Recommended Decision*, FCC 98J-7, released Nov. 25, 1998.

customer notification of changes, and flow through access charge reductions in the event that the Commission adopted the CALLS II proposal.

A primary concern of the State Members regarding the commitments to eliminate MUCs for AT&T's Basic Schedule Rates and both AT&T's and Sprint's basic calling plans is that those commitments appear to be fragile, and contingent on the behavior of other IXCs. AT&T has committed to eliminate the MUC on its Basic Rate Schedule, provided that no other carriers controlling at least a combined 10% of the market share charge a MUC. If MCI charges a MUC, AT&T's commitment evaporates. With respect to the availability of a basic calling plan without a MUC, AT&T's commitment expires in one year and simultaneously triggers nullification of Sprint's commitment. Sprint's commitment would also dissolve in the event that MCI or any other future signatory charges a MUC on its basic rate plan.

The State Members are also concerned that there is no commitment for decreasing basic schedule rates over time despite a \$2.1 billion access reduction. Even though AT&T and Sprint have committed to providing customer notification on the One Rate Basic Plan and the Standard Weekend Plan, it is likely that many customers will still pay toll charges subject to basic schedule rates. A commitment to basic schedule rate reductions would allow casual callers to share in the benefits of access reduction flow through.

A related concern is that AT&T may actually seek to increase Basic Schedule Rates. AT&T's letter indicates that AT&T will "modify its residential domestic interstate Basic Schedule usage rates in conjunction with elimination of the minimum usage requirement" and will not thereafter increase those rates for one year. This permits AT&T to initially increase the Basic

Schedule per minute rates on July 1, 2000, upon elimination of the MUC.

AT&T and Sprint have also made commitments to “flow through” the access reductions in CALLS II to consumers. Those commitments, however, do not indicate a timeframe for flow through or provide any assurance that all customers will receive benefits from the flow through of access reductions. The State Members are concerned that the flow through might not occur until late in the plan, or be targeted only to high volume consumers.

Another concern is that it is unclear whether the conditional commitments made by Sprint and AT&T might have otherwise resulted from competitive pressure and consumer choice. There are some carriers that currently do not impose minimum usage charges or monthly fees, have per minute charges competitive with Sprint’s Standard Weekend Plan, and are substantially lower than AT&T’s One Rate Basic Plan. For example, based upon discussions with carrier customer service representatives, the following carriers do not charge MUCs or monthly fees in Missouri:

<u>Company</u>	<u>Inter-state</u>	<u>Minimum Fee/Usage Charge</u>
Westel	\$0.125	NONE
Cable & Wireless	\$0.120	NONE
CGI Long Distance	\$0.130	NONE
Coast International	\$0.139	NONE
Unidial	\$0.099	NONE

We believe that a number of steps could be taken to ensure that customers actually benefit from the access reductions that result from the CALLS II plan. Commitments should apply throughout the life of the CALLS II plan. If the plan is adopted, the long-distance carriers should commit to timeframes for rate reductions and to meaningful reductions in basic schedule rates.

Guarantees of no minimum fees or minimum usage charges should apply to a wider variety of existing plans and to new plans implemented over the life of CALLS II. The commitments should not be conditioned on the activity of other carriers. We also believe that dollar for dollar reductions should occur and that the signatory IXC's should clarify the means of measuring the flow through of access charges to customers.

In the Second Recommended Decision, the Joint Board stated that, to the extent that the Commission decides to remove implicit support from access rates, dollar-for-dollar reductions in end-user charges should occur and that reductions in access rates must inure to the benefit to consumers.⁴ The State Members believe that the limited and conditional nature of the commitments made by AT&T and Sprint do not meet these standards and are inadequate to ensure timely and meaningful benefits to consumers. Absent more comprehensive and detailed commitments on the part of the signatory IXC's, we believe consumers would be better served by maintaining the status quo.

Creation Of The Access USF

The CALLS II proposal results in the creation of \$650 million in new universal service support, known as the "Access USF." This is more than three times the need-based support that is now provided to high-cost non-rural companies as a result of the Joint Board's Second Recommended Decision. In addition, the proposed increase in the SLC will increase the financial

⁴ Federal-State Joint Board on Universal Service (Docket No. 96-45), *Second Recommended Decision*, FCC 98J-7, released Nov. 25, 1998, at 23.

demand on the Lifeline program, creating a need for still more universal service funds. In conjunction with the Commission's existing commitments, these new financial obligations could constrain the ability of the Joint Board in the future to recommend other desirable universal service programs, such as support for rural companies and for underserved areas.

Additionally, the Commission must evaluate whether this new sizeable expenditure of universal service support is consistent with various principles and policies found in the Act and in previous recommended decisions of this Joint Board. For example, pursuant to Section 254(e), any federal universal service fund must: “use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.” The CALLS II proposal does not explain how the Commission will ensure that this universal service fund meets this requirement. The Joint Board has previously required that universal service support must meet this requirement and has recommended that carriers and state commissions certify compliance with Section 254(e).⁵

Second, the State Members are concerned that CALLS II may not conform to the requirement that universal service support mechanisms “should be specific, predictable and sufficient” . . . “to preserve and advance universal service.”⁶ The State Members urge the Commission to work in consultation with the Joint Board to further explore the extent to which the \$650 million fund will be “sufficient” and “predictable.”

Finally, CALLS will significantly redistribute the rates and charges paid by customers, both among study areas and among zones within single study areas. SLC payments will increase

⁵ Second Recommended Decision at 57, 58.

⁶ 47 U.S.C. Section 254(b)(4).

substantially for some customers. Also, new universal service charges will support the \$650 million of access support, as well as any additional charges needed to support higher Lifeline payments. The State Members believe that the Joint Board should be consulted in an effort to evaluate the effects of these financial changes, if any, on telephone subscribership.

Distribution Of The Access USF

The State Members encourage the Commission to gain assurance that a mechanism is in place to ensure that the amount of universal service support is periodically measured against cost and need on a forward-looking basis and that support when required will be reduced from time to time.

The Commission and the Federal-State Joint Board on Universal Service (CC Docket No. 96-45) spent the past four years developing revisions to the Universal Service program for non-rural carriers. The lengthy joint effort has resulted in a fund for high cost non-rural carriers that is less than one-third the size of the fund established in the CALLS II Proposal. Further, the distribution of the non-rural high cost USF is specifically targeted to areas that have high costs relative to other areas throughout the nation. By distributing the new Access USF to non-rural carriers based only on the differential between the carrier's study area revenue requirement and a specified benchmark, the CALLS II distribution methodology is significantly different from that adopted by the Commission for the current non-rural USF.

The Federal-State Joint Board and the Commission previously have considered and rejected the use of revenue requirements or embedded costs for the distribution of Universal Service support, adopting instead the use of forward-looking costs. Further, the Joint Board and the Commission have considered and rejected a methodology, similar to that proposed by the CALLS coalition, that

would distribute USF to carriers based on study-area costs relative to a benchmark, opting instead for a methodology that recognizes the ability of each state to provide support if needed. The State Members urge the Commission to not adopt the new USF aspect of the CALLS II Proposal without further consultation with the Federal-State Joint Board for Universal Service, consistent with the Congressional mandate of Section 254 of the Telecommunications Act.

The State Members support the competitive neutrality of distributing USF payments. However, the CALLS II proposal appears to offer the opportunity for non-signatory incumbent and competitive LECs to “game” the system, receiving increased USF payments, but retaining current access charges. The Commission should examine the manner in which payments from any additional USF might be conditional upon commensurate access reductions. Otherwise, the key customer benefit of the CALLS II proposal, to ultimately reduce interexchange carrier rates, would be thwarted.

Assessment Of Access USF Payments

As discussed earlier, CALLS II would establish a \$650 million of Access USF monies to provide explicit universal service funding for a portion of the implicit funding that has been generated through interstate access charges. In addition to being rather cryptic as to how the dollar amount for the Access USF was determined, the CALLS II proposal is essentially silent as to how assessments to generate the \$650 million will be made.

We presume that CALLS intends that assessments to yield the \$650 million will be made as they are for the existing universal service programs: as an assessment based on the revenues of providers of end user interstate telecommunications services. Assuming this is correct, some

anomalies (and perhaps inequities) may occur. A principal basis for the distribution of Access USF monies is to offset the level of subscriber line charges that a price cap LEC would otherwise have to charge to recover its allowed level of common line revenues. However, since the purpose of the CALLS II plan is predominantly access charge reform, the result is that some entities, such as CMRS providers, will receive modest indirect benefits, at most, from CALLS, yet they will be required to contribute to price cap LEC access charge restructuring. Moreover, to the extent that non-price cap, largely rural and high cost, LECs are also assessed to fund the Access USF, these LECS would be contributing USF payments so that more urban, lower cost LECs could charge lower subscriber line charges.

Recovery Of Joint And Common Costs

The State Members have addressed in our prior comments the issues related to the joint and common nature of loop costs, how the Commission has recognized the nature of these costs in its past decisions, and why an increase in the SLC would affect universal service protections contained within § 254(k).⁷ That section requires the Commission to "establish rules...safeguards...and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities to provide these services." Under the CALLS II plan, most consumers would pay 100 percent of interstate common line costs through the increased SLC.

The SLC is a flat rate that must be paid by each customer in order to obtain basic universal service. A customer who does not pay the SLC charge cannot receive either voice grade access to

⁷ State Member Comments at 4-10. The State Members will not repeat these points in these Supplemental Comments, but rely upon our past analysis on these issues.

the public switched network or access to interexchange service.⁸ Both of these services are included, with others, in the list of services supported by universal service.⁹

The State Members support the Commission's prior determinations that interstate joint and common costs should be recovered from several access elements. In order for the Commission to determine that CALLS II is consistent with section 254(k), the Commission must determine that it is reasonable for services included in the definition of universal service to pay 100 percent of the joint and common cost of the network.

Reduction In Per-Minute Access Charges

The CALLS II proposal would reduce switched access usage charges (including Average Traffic Sensitive Charge rates and carrier common line charges, but excluding SLCs and PICCs) by \$2.1 billion on July 1, 2000, assuming all price cap carriers participate. This reduction occurs as a result of the reduction of Average Traffic Sensitive Charge rates (currently 0.77 cents per minute for all price cap LECs) to 0.55 cents for the RBOCs and GTE, and 0.65 cents for other price cap LECs.

The State Members have not had the opportunity to analyze the long-term impact of this reduction as compared to the current price cap productivity computation, but we urge the Commission to examine the impact closely to determine the extent to which customers benefit.

⁸ "Access to interexchange service" means the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network. In the Matter of Federal-State Joint Board on Universal Service, CC Docket 96-45, *Report and Order*, May 8, 1997, FCC 97-157, at ¶ 76.

⁹ *Id.*, at ¶¶ 61, 63, 76.

Impact On State Rate-Making

The Commission is urged to look beyond the specifics of the CALLS II proposal and consider the long-term impacts of a decision to accept this proposal. The CALLS II proposal deals with interstate rates alone that are roughly 25% of the total costs of providing domestic telecommunications services in the United States. The CALLS II proposal includes a \$6.50 SLC cap and a \$650 million Universal Service Fund. If mirrored by the states to cover the remaining 75% of the intrastate investment, the SLC would be \$26.00 and the Universal Service Fund would be \$2.6 billion, all funded directly from customers.

The Commission must recognize that CALLS II would have significant impact on intrastate access charge rates. Many states require that intrastate access fees mirror the interstate assessments. As a result, the ultimate increase in flat rate assessments on end users may be substantially higher than is currently estimated by the CALLS proponents. If the states do not mirror the interstate access charges proposed by the CALLS II proposal, then the existing disparity between interstate and intrastate long distance services will be far worse than in the past. The State Members respectfully submit that if accepted by the Commission, the CALLS II proposal places state regulators in a no-win position of having to either maintain state access charges that are much higher than the interstate charges, or reducing intrastate access rates and raising other intrastate rates to compensate for the revenue reduction. If CALLS II is adopted, States with high costs and low subscribership levels may therefore be forced to adopt the federal access charge structure, resulting in higher SLCs and possibly more consumers dropping from the network. The CALLS proposal

should therefore not be adopted without a comprehensive review including the effects on intrastate access rates and whether the interstate rates proposed will be reasonable.

Geographically Deaveraged SLC

CALLS II includes a complex set of rules for the geographic deaveraging of SLC charges and interstate universal service support within a state.¹⁰ The State Members urge the Commission to more thoroughly evaluate the manner in which these rules will work in practice, and the effects they are likely to have in states with multiple carriers and multiple affected study areas.

The CALLS II proposal deaverages the SLC between study areas, and in as many as four zones within the study area. The State Members are concerned that there has not been a full evaluation of the differences between proposed urban and rural SLCs, and urge the Commission to determine whether these differences will satisfy the “affordable” and “reasonably comparable” standards in Section 254(b) of the Act.

The primary goal of Section 254 of the 1996 Act is that universal service must be provided at just, reasonable, and affordable rates.¹¹ To the extent that CALLS permits SLC payments in some areas to be large (even if capped by universal service support) and permits SLC payments in other areas to be small, State Members are concerned this statutory goal may be jeopardized.

Section 254(g) requires that rates for interexchange telecommunications services charged by "providers of interexchange telecommunications services" to subscribers in rural and high cost areas be no higher than rates charged by each such provider to its subscribers in urban areas. Under CALLS II, interexchange carriers will be able to reduce their obligations under Section 254(g) to the

¹⁰ See, e.g., proposed 47 CFR § 69.152(q).

extent they can re-characterize costs previously recovered from interexchange rates as end-user charges of the ILEC. The Commission should examine whether rural high cost states could be economically disadvantaged if interexchange carriers are able to reduce their obligation for nationwide averaged rates by increasing and deaveraging the flat rate assessments to end users. The Commission should also examine whether it may be contrary to the intent of Congress to reduce the customer benefit from nationwide averaging of costs and comparable rates, replacing the current structure with one that promotes deaveraged rates and potentially higher fees to consumers living in high-cost rural areas.

Applicability Of CALLS II

Prior to adopting the CALLS proposal, the FCC should make clear whether the plan would apply to all companies, only those advocating CALLS, price cap companies, non-rural companies, or some other sub-group. To the extent the proposal does not apply to all companies, then there is the potential for the nation to operate under two separate interstate access charge recovery mechanisms. If so, the FCC should ensure that consumers are not facing double recovery of interexchange access revenues and that rates remain reasonable.

Conclusion

Congress, through the passage of the 1996 Act, created the Joint Board on Universal Service to provide the FCC with advice and guidance from both state and federal viewpoints in order to achieve the goals of universal service that are expressly stated in the Act. The State Members believe that this proceeding offers the FCC an opportunity to commit to the shared responsibility it

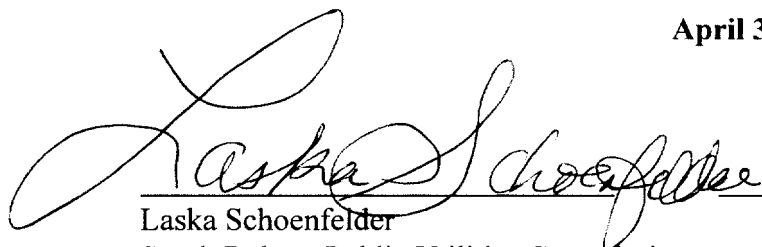
¹¹ 47 U.S.C. 254(b)(1).

holds with the states to fulfill the universal service obligations of the Act. The State Members of the Federal-State Joint Board on Universal Service respectfully submit these supplemental comments and we welcome future participation and consultation in the proceeding to restructure access charges.

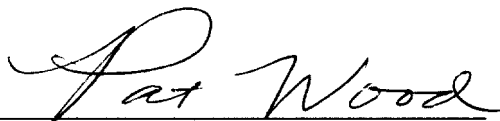
Respectfully submitted,

**State Members of the
Federal-State Joint Board on Universal Service**

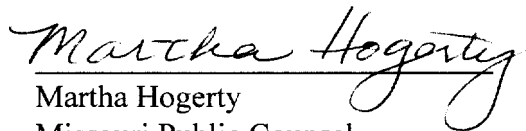
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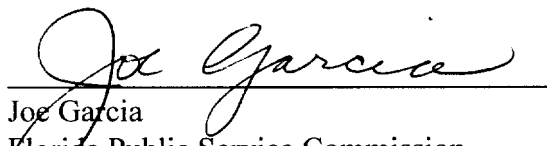
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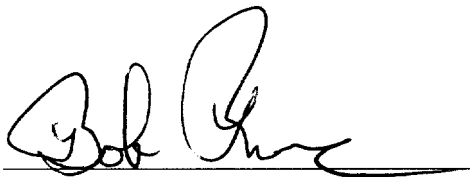
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